

Message Text

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SUBJECT: APPLICABILITY OF MINIMUM WAGE TO FOREIGN
DOMESTIC EMPLOYEES OF INTERNATIONAL ORGANIZATION STAFF
MEMBERS IN HOST COUNTRY

1. TWO FORMER DOMESTIC EMPLOYEES OF UNDP STAFF MEMBERS
HAVE FILED SUIT IN US FEDERAL COURT IN NEW YORK CITY
CHARGING, AMONG OTHER THINGS, THAT THEY WERE PAID WAGES
BELOW THE NY STATE MINIMUM WAGE. UN LEGAL OFFICE HAS
ASKED DEPT'S OPINION ON APPLICABILITY OF US MINIMUM WAGE
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LAWS TO FOREIGN DOMESTIC SERVANTS EMPLOYED BY INTERNATIONAL
ORGANIZATION PERSONNEL STATIONED IN THE US.

2. THE UN LEGAL OFFICE ARGUES THAT, AS A MATTER OF COMITY,
LOCAL MINIMUM WAGE LEGISLATION HAS NOT BEEN APPLIED BY
HOST GOVERNMENTS TO FOREIGN DOMESTICS IN THE EMPLOY OF

EMBASSIES, EMBASSY PERSONNEL, OR OFFICIALS OF INTER-
GOVERNMENTAL ORGANIZATIONS.

3. IN ORDER TO PREPARE AN APPROPRIATE REPLY TO THE UN
LEGAL OFFICE, DEPARTMENT WOULD APPRECIATE ADDRESSEE POSTS
MAKING INQUIRIES OF THE HOST GOVERNMENTS OF INTERNATIONAL

ORGANIZATIONS TO ASCERTAIN IF EMPLOYEES OF INTERNATIONAL
ORGANIZATIONS ARE REQUIRED TO COMPLY WITH HOST STATE
MINIMUM WAGE LAWS IN RESPECT OF WAGES PAID TO DOMESTIC
(HOUSEHOLD) SERVANTS.

4. IN MAKING THIS INQUIRY, IT IS REQUESTED THAT THE
FOLLOWING QUESTIONS BE ANSWERED:

(A) IF MINIMUM WAGE IS APPLICABLE, IS IT BASED ON FEDERAL
(OR NATIONAL) LEGISLATION, LOCAL LAW, OR ON OTHER GROUNDS,
SUCH AS HEADQUARTERS AGREEMENT, SPECIFIC REGULATION, ETC?

(B) IF HOST GOVERNMENT DOES NOT HAVE MINIMUM WAGE LAW,
DOES IT IMPOSE ANY OTHER REQUIREMENTS (I.E., AS A MATTER
OF POLICY) THAT FOREIGN DOMESTICS BE PAID A SET WAGE OR
SALARY?

(C) DID HOST GOVERNMENT TAKE SPECIFIC STEPS TO INFORM
THE INTERNATIONAL ORGANIZATION OF APPLICABILITY OF
MINIMUM WAGE AND IF SO, BY WHAT MEANS--E.G., NOTE, MEMO?

(D) IN COMPUTING MINIMUM WAGE, DOES HOST GOVERNMENT TAKE
INTO CONSIDERATION ROOM, BOARD, OR OTHER REMUNERATION
(I.E., PAYMENT OF TRANSPORTATION FARES TO AND FROM COUNTRY
OF ORIGIN) OR ARE SUCH AMENITIES CONSIDERED ADDITIONAL
PAYMENT ABOVE AND BEYOND MINIMUM WAGE?

(E) IS MINIMUM WAGE LEGISLATION OR POLICY ALSO APPLICABLE
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TO DOMESTIC SERVANTS EMPLOYED BY EMBASSIES OR EMBASSY
STAFF?

(F) DOES HOST GOVERNMENT CONCERN ITSELF WITH RESTRICTIONS
ON NUMBER OF HOURS WHICH EMPLOYERS MAY LAWFULLY REQUIRE
HOUSEHOLD SERVANTS TO WORK?

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